

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GABRIEL ROSA-DIAZ,
Plaintiff,

v.

SGT. GATTO, et al.,
Defendants.

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Civil Action No. 1:17-cv-152

Judge Susan Paradise Baxter

ORDER OF COURT

Susan Paradise Baxter, District Judge

Plaintiff initiated the instant action on June 15, 2017. ECF No. 1. On January 8, 2018, Defendants filed a Partial Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. ECF No. 11. On August 10, 2018, the undersigned, then a United States Magistrate Judge, issued a Report and Recommendation that the Motion to Dismiss be granted in part and denied in part. ECF No. 18. The Report also recommended that Defendant Varner be terminated from the case in light of Plaintiff's voluntary dismissal of his claims against her. No objections to the Report and Recommendation were filed.

On September 14, 2018, the undersigned was sworn in as a United States District Judge. This action was reassigned to this Court's docket on September 18, 2018. ECF No. 21.

In light of the foregoing, it is HEREBY ORDERED that the Report and Recommendation issued on August 10, 2018, is converted into a final Memorandum Opinion. Consistent with the recommendation therein, Defendants' Motion to Dismiss is GRANTED in part and DENIED in part. Defendant Varner is terminated from this action.

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States District Judge

Dated: September 25, 2018